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of the State of California
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5 Attorneys for Complainant

6
7 BEFORE THE
8 DIVISION OF MEDICAL QUALITY
9 BOARD OF MEDICAL QUALITY ASSURANCE
10 DEPARTMENT OF CONSUMER AFFAIRS
11 STATE OF CALIFORNIA

12 In the Matter of the Accusation)	NO. D-3788
Against:)	
13 JERRY NEIL RAND, M.D.)	STIPULATED DECISION
14 17672 Beach Boulevard)	AND ORDER
Suites A and B)	
15 Huntington Beach, CA 92647)	
Physician's and Surgeon's)	
16 Certificate No. G 025749)	
17 Respondent.)	
18)	

19 It is hereby stipulated by and between the parties in the
20 above-captioned matter, that the following is true:

21 1. Jerry Neil Rand, M.D. (hereafter "Respondent") was
22 issued Physician's and Surgeon's Certificate No. G 025749 by the
23 Board of Medical Quality Assurance of the State of California
24 (hereinafter the "Board"), on or about June 24, 1973. Respondent
25 is a supervisor of physician's assistants.

26 2. On or about June 3, 1988, a preliminary injunction
27 issued restraining Respondent from the practice of medicine,

1 including supervision of physician's assistants. This injunction
2 remains in place at present.

3 3. On or about May 3, 1988, Kenneth J. Wagstaff in his
4 official capacity, and not otherwise, caused to be filed
5 Accusation No. D-3788 alleging causes for disciplinary action
6 against Respondent. A true and accurate copy of that Accusation
7 is attached to this Stipulation and Order and is incorporated by
8 reference herein. That Accusation was duly and properly served
9 on Respondent, and thereafter Respondent filed a timely Notice of
10 Defense requesting a hearing on the charges and allegations set
11 forth in Accusation No. D-3788.

12 4. On or about June 2, 1988, Kenneth J. Wagstaff in his
13 official capacity, and not otherwise, caused to be filed a
14 Supplemental Accusation. A true and accurate copy of the
15 Supplemental Accusation is attached hereto and incorporated by
16 reference herein. The Supplemental Accusation was duly and
17 properly served on Respondent and he has filed a timely Notice of
18 Defense to both the Accusation and the Supplemental Accusation.

19 5. At all times mentioned herein, complainant has been
20 represented by John K. Van De Kamp, Attorney General of the State
21 of California, by and through Susan Fitzgerald, Deputy Attorney
22 General, personally.

23 6. Respondent is self-represented in these
24 administrative proceedings.

25 Respondent has viewed the charges and allegations set
26 forth in Accusation and Supplemental Accusation No. D-3788, and
27 fully understands them. Respondent herein has been informed of

his rights to an administrative hearing on the charges and allegations set forth in said Accusation; his right to confront and cross-examine witnesses; his right to use of process to secure witnesses and documents as evidence for his own case in defense and/or mitigation; his right to reconsideration of any decision adverse to him; and his right to appeal to the courts as enumerated in both the Government Code and the Code of Civil Procedure in the State of California.

7. Respondent herein knowingly and intelligently gives up and waives his right to a hearing and all other rights which may be accorded him pursuant to the Administrative Procedure Act as set forth in the Government Code and the Code of Civil Procedure in the State of California, and stipulates and agrees that the charges and allegations set forth in Accusation and Supplemental Accusation No. D-3788 may be resolved by the Division of Medical Quality pursuant to the instant stipulation and order.

8. For purposes of the instant matter and the Board, Respondent herein stipulates to the truth of each and every factual allegation set forth in paragraphs 8 (A,B, C, D, E, G and H), 9 (A and B), and 11 of the Accusation and Amended Accusation and paragraphs 15, 16, and 17 and all subparts of the Supplemental Accusation. This admission shall be for the purpose of this action and any other future action involving Respondent and the Division of Medical Quality, but shall be null, void, and inadmissible in any other proceedings.

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1 9. It is further stipulated that during the period of
2 time encompassing the acts set forth in paragraphs 8 (A, B, C, D,
3 E, G and H), 9 (A and B), 11, 15, 16, and 17, inclusive, that
4 respondent was mentally or physically ill as a result of
5 substance abuse to such an extent that his ability to practice
6 medicine safely was impaired and that he may continue to be so
7 impaired through the present time.

8 10. It is deemed stipulated that the Board makes the
9 following findings in this matter:

10 A. The charges and allegations of violation of Title 16,
11 California Code of Regulation sections 1399.545(h) and
12 1399.541(h) in the original Accusation (failure to adequately
13 supervise physician's assistants) are deemed dismissed;

14 B. The charges in the Supplemental Accusation of
15 violations of Business and Professions Code sections 2234(b),
16 (gross negligence), 2234(c), (repeated negligent acts), and
17 2234(d), (incompetence), are deemed dismissed. The factual
18 allegations in paragraph 15 and its subparts of the Supplemental
19 Accusation (admitted as true by respondent in paragraph 8 herein
20 above) are stipulated to be further acts illustrative of
21 respondent's inability to practice medicine safely due to mental
22 or physical illness as a result of substance abuse. Respondent's
23 certificate, thus, is subject to disciplinary action by the Board
24 in accordance with Business and Professions Code sections 821,
25 822, 2239(a) and 2240.

26 11. In consideration of the stipulations, admissions,
27 and waivers made herein, it is stipulated and agreed that the

1 Board may issue the following decision in settlement of
2 Accusation and Supplemental Accusation No. D-3788:

3 Physician's and Surgeon's Certificate No. G 025749,
4 previously issued to Respondent Jerry Neil Rand, is hereby
5 revoked; however, said order of revocation shall be stayed and
6 Respondent placed on probation to the Board for a period of five
7 (5) years subject to the following terms and conditions:

8 A. Within thirty (30) days of the effective date of this
9 decision, Respondent shall submit to the Board for its prior
10 approval a drug rehabilitation program in which Respondent shall
11 participate at least weekly for at least fifty (50) weeks of each
12 calendar year for the duration of probation. This program must
13 include, but not be limited to, random biological fluid testing
14 and counseling on a regular basis. The Diversion Program of the
15 Board of Medical Quality Assurance is recommended if that program
16 will accept Respondent for formal contractual participation in
17 the program.

18 If Respondent is accepted into the Board of Medical
19 Quality Assurance's diversion program, Respondent shall not
20 practice medicine or supervise physician's assistants until such
21 time as both the Diversion Evaluation Committee and the
22 Enforcement Division of the Board of Medical Quality Assurance
23 conclude that Respondent may safely re-enter the practice of
24 medicine.

25 Should Respondent be accepted into a rehabilitation
26 program other than the Board's diversion program, Respondent
27 shall not practice medicine or supervise physician's assistants

1 until such time as the director of Respondent's rehabilitation
2 program and the Enforcement Division of the Board conclude that
3 Respondent may safely re-enter the practice of medicine.

4 B. When both the Board's diversion program, or other
5 drug rehabilitation program, and the Board's enforcement division
6 determine that respondent is ready to resume medical practice,
7 respondent shall take and pass an oral clinical examination in
8 respondent's specialty field of medicine. If Respondent fails
9 any such examination, respondent shall not practice medicine
10 until Respondent has passed an oral clinical exam and has been so
11 notified in writing by the Division of Medical Quality. The
12 waiting period between repeat examinations shall be at three
13 month intervals until success is achieved. The Board shall pay
14 the cost of the first examination and respondent shall pay the
15 cost of any subsequent re-examinations.

16 C. Respondent shall abstain completely from the personal
17 use or possession of controlled substances as defined in the
18 California Uniform Controlled Substances Act, and dangerous drugs
19 as defined by section 4211 of the Business and Professions Code,
20 or any drugs requiring a prescription unless said controlled
21 substances or dangerous drugs are lawfully prescribed to
22 Respondent for a bona fide illness or condition by another
23 practitioner.

24 D. Respondent shall obey all Federal, State, and local
25 laws, and all rules governing the practice of medicine in
26 California.

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1 E. Respondent shall submit quarterly declarations under
2 penalty of perjury on forms provided by the Division of Medical
3 Quality stating whether there has been compliance with all of the
4 conditions of probation.

5 F. Respondent shall comply with the Division of Medical
6 Quality's probation surveillance program.

7 G. Respondent shall appear in person for interviews with
8 the Division's medical consultant upon request at various
9 intervals and with reasonable notice.

10 H. In the event Respondent should leave California to
11 reside or to practice outside the state, Respondent must notify
12 the Division in writing of the date of departure and return.
13 Periods of residency and practice outside California will not
14 apply to the reduction of this probationary program.

15 I. Upon successful completion of probation, Respondent's
16 certificate will be fully restored.


17 J. If Respondent violates probation in any respect,
18 including strict compliance with the Board's Diversion Program
19 should Respondent be accepted into said program, the Division,
20 after giving Respondent notice and the opportunity to be heard,
21 may revoke probation and carry out the disciplinary order that
22 was stayed. If an Accusation or a Petition to Revoke Probation
23 is filed against Respondent during probation, the Division shall
24 have continuing jurisdiction until the matter is final, and
25 the period of probation shall be extended until the matter is
26 final.

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1 K. In the event Respondent is accepted into either the
2 Board's Diversion Program or another drug rehabilitation program,
3 and Respondent fails to complete that program, the order of
4 revocation called here and above shall be imposed without further
5 hearing, and the Respondent shall thereafter be required to
6 petition the Division for restoration of his certificate one year
7 from his effective date of revocation.

8 I have read the foregoing Stipulation and Order and have
9 discussed the terms and conditions with my counsel. I understand
10 the terms and conditions and I agree to be bound by them.

11 Dated: 9/18/89

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13 
14 JERRY NEEL RAND, M.D.
Respondent

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16 The Instant Stipulation and Order is submitted to the
17 Division for adoption as its decision in Case No. D-3788.

18 Dated: September 18, 1989

19 JOHN K. VAN DE KAMP, Attorney General
20 of the State of California

21 
22 SUSAN FITZGERALD
Deputy Attorney General

23 Attorneys for Complainant
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ORDER

The Instant Stipulation is adopted as the decision of
the Board of Medical Quality Assurance in Case No. D-3788
25th day of September, 1989, and shall become
effective the 25th day of September, 1989.

DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE
State of California

By: Kenneth Wagstagg

KENNETH WAGSTAGG, Executive Director

1 JOHN K. VAN DE KAMP, Attorney General
of the State of California
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8 BOARD OF MEDICAL QUALITY ASSURANCE
9 DEPARTMENT OF CONSUMER AFFAIRS
10 STATE OF CALIFORNIA

11 In the Matter of the Accusation) No. D-3788
12 Against:)
13 JERRY NEIL RAND, M.D.)
17672 Beach Boulevard)
14 Suites A and B) ACCUSATION
Huntington Beach, CA 92647)
15 Physician's and Surgeon's)
16 Certificate No. G 025749)
17 Respondent.)

18
19 Kenneth J. Wagstaff alleges:

20 1. He is the Executive Officer of the Board of
21 Medical Quality Assurance ("Board") and makes these charges
22 and allegations in his official capacity.

23 License Status

24 2. At all times mentioned herein, Jerry Neil Rand,
25 M.D. ("respondent"), held physician's and surgeon's license
26 No. G 025749 issued to him by the Board on June 24, 1973.
27 Respondent is a supervisor of physician's assistants.

1 3. At all times relevant herein, respondent has
2 maintained a medical office located at 17672 Beach Boulevard,
3 Suites A and B, Huntington Beach, California, ("respondent's
4 office").

5 Temporary Restraining Order/Preliminary Injunction

6 4. On April 20, 1988, the Orange County Superior
7 Court issued a Temporary Restraining Order ("TRO") against
8 respondent's right to practice medicine, his right to
9 supervise the practice of medicine and against his right to
10 prescribe, dispense, furnish, order or possess controlled
11 substances or dangerous drugs except as prescribed to him by a
12 treating physician.

13 5. Hearing regarding the Order to Show Cause regarding
14 the Preliminary Injunction is set for May 5, 1988.

15 Statutes and Regulations

16 6. This accusation is made in reference to the
17 following statutes:

18 A. Business and Professions Code ("Code") section 820
19 provides, as relevant hereto, that whenever it appears that any
20 person holding a license, certificate or permit under this
21 Division (Division 2, §§ 500 - 4998.7, inclusive) may be unable
22 to practice his profession safely because the licentiate's
23 ability to practice is impaired due to mental illness, or
24 physical illness affecting competency, the licensing agency may
25 order the licentiate to be examined by one or more physicians
26 and surgeons or psychologists designated by the agency. The
27 report of the examiners shall be made available to the

1 licentiate and may be received as direct evidence in
2 proceedings conducted pursuant to section 822 of the Code.

3 B. Section 821 of the Code provides that the
4 licentiate's failure to comply with an order issued under
5 section 820 shall constitute grounds for the suspension or
6 revocation of the licentiate's certificate or license.

7 C. Section 822 provides:

8 "If a licensing agency determines that its
9 licentiate's ability to practice his or her profession
10 safely is impaired because the licentiate is mentally
11 ill, or physically ill affecting competency, the
12 licensing agency may take action by any one of the
13 following methods:

14 "(a) Revoking the licentiate's certificate or
15 license.

16 "(b) Suspending the licentiate's right to
17 practice.

18 "(c) Placing the licentiate on probation.

19 "(d) Taking such other action in relation to the
20 licentiate as the licensing agency in its discretion
21 deems proper."

22 The licensing agency shall not reinstate a revoked or
23 suspended certificate or license until it has received
24 competent evidence of the absence or control of the condition
25 which caused its action and until it is satisfied that with
26 due regard for the public health and safety the person's right
27 to practice his or her profession may be safely reinstated.

1 D. Section 2018 provides that each division of the
2 Board may, within its jurisdiction adopt regulations necessary
3 to enable it to carry into effect the provisions of law
4 relating to the practice of medicine.

5 E. Section 2239(a) provides that it is unprofessional
6 conduct for a physician to use, prescribe for himself or self
7 administer any controlled substances or use any dangerous drugs
8 to such an extent that he becomes a danger to himself, other
9 persons or the public, or impairs his ability to practice his
10 profession safely.

11 F. Section 2240 provides that it is unprofessional
12 conduct for a licensee to attend patients while intoxicated to
13 such an extent as to impair his ability to practice medicine
14 with safety to his patients.

15 G. Section 2234 provides, inter alia, that it is
16 unprofessional conduct to violate, directly or indirectly any
17 provision of Chapter 5 of the Business and Professions Code
18 ("Medicine").

19 1.) Section 3510, provides the Physician's
20 Assistant's Examining Committee with the authority to adopt
21 regulations necessary to enable it to implement the provisions
22 of Chapter 5 under its jurisdiction.

23 2.) Title 16, California Code of Regulations ("CCR")
24 section 1399.541(h) provides that a physician's assistant may:

25 "Administer medication to a patient, or transmit
26 orally, or in writing on a patient's record, a
27 prescription from his or her supervising physician to a

1 person who may lawfully furnish such medication or
2 medical device. The supervising physician's
3 prescription, transmitted by the physician assistant, for
4 any patient cared for by the physician assistant, shall
5 be based either on a patient-specific order by the
6 supervising physician or on written protocol which
7 specifies all criteria for the use of a specific drug or
8 device and any contraindications for the selection. A
9 physician assistant shall not provide a drug or transmit
10 a prescription for a drug other than that drug specified
11 in the protocol, without a patient-specific order from a
12 supervising physician. At the direction and under the
13 supervision of a physician supervisor, a physician
14 assistant may hand to a patient of the supervising
15 physician a properly labeled prescription drug
16 prepackaged by a physician, a manufacturer, as defined in
17 the Pharmacy Law, or a pharmacist. In any case, the
18 medical record of any patient cared for by the physician
19 assistant for whom the physician's prescription has been
20 transmitted or carried out shall be reviewed and
21 countersigned and dated by a supervising physician within
22 (7) days. A physician assistant may not administer,
23 provide or transmit a prescription for controlled
24 substances in Schedules II through V inclusive without
25 patient-specific authority by a supervising physician."

26 3.) CCR section 1399.545(h) provides, inter alia,
27 that the supervising physician shall be responsible for all

1 medical services provided by a physician assistant under his
2 supervision.

3 Drugs

4 7. At all times relevant herein the following drugs
5 have been, and currently are, dangerous drugs within the
6 meaning of Business and Professions Code section 4211, and, at
7 times relevant herein, classified as controlled substances as
8 follows:

9 A. Tylenol with Codeine, a brand name for
10 acetaminophen with codeine, (in either strength #3 or #4) is a
11 Schedule III controlled substance pursuant to California
12 Health and Safety Code section 11056(e)(2).

13 B. Valium, a brand name for diazepam, is a Schedule IV
14 controlled substance pursuant to California Health and Safety
15 Code section 11057(d)(7).

16 C. Xanax, a brand name for alprazolam, is a Schedule
17 IV controlled substance pursuant to 21 Code of Federal
18 Regulations 1308.14(c)(1).

19 D. Demerol, a brand name for meperidine
20 hydrochloride, is a Schedule II controlled substance pursuant
21 to California Health and Safety Code section 11055(c)(16).

22 E. Talwin, a brand name for pentazocine hydrochloride
23 and naloxone hydrochloride, is a Schedule IV controlled
24 substance pursuant to California Health and Safety Code section
25 11057(g)(1).

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1 F. Darvon, a brand name for dextropropoxhene, is a
2 Schedule IV controlled substance pursuant to California Health
3 and Safety Code section 11057(c)(2).

4 G. Halcion, a brand name for triazolam, is a Schedule
5 IV controlled substance pursuant to 21 Code of Federal
6 Regulations 1308.14(c)(45).

7 H. Fiorinal, a brand name for butalbital, aspirin and
8 caffeine is a Schedule III controlled substance pursuant to
9 California Health and Safety Code section 11056(b)(3).

10 I. Fioricet, a brand name for butatertal,
11 acetaminophen and caffeine is a dangerous drug pursuant to
12 California Business and Professions Code section 4211.

13 J. Anexia, a brand name for hydorcodone, with
14 uncontrolled ingredients, is a Schedule III controlled
15 substance pursuant to California Health and Safety Code
16 section 11056(e).

17 Charges and Allegations

18 8. Respondent has violated provisions of the Business
19 and Professions Code ("Medical Practice Act") and is subject to
20 discipline by reason of the following:

21 Mental and/or Physical Illness/Substance Abuse

22 A. In or about August 31, 1987, respondent was
23 hospitalized at Fountain Valley Hospital for a course of
24 steroid treatment relative to back injury/pain and for
25 observation regarding drug dependency and possible
26 detoxification. The medical records show that he was self-

27

1 administering hypnotic sedative and pain medications from at
2 least mid-1986.

3 B. On or about September 24, 1987, after respondent's
4 hospitalization at Fountain Valley Hospital in August-September
5 of 1987, respondent exhibited paranoid behavior on examination
6 by neurologist H. Richard Adams, M.D. Dr. Adams found no
7 evidence of pain behavior neurologically but felt respondent
8 continued to exhibit a thought disorder and needed psychiatric
9 treatment. Respondent requested in-patient evaluation of his
10 emotional status.

11 C. On or about October 28, 1987, respondent was
12 admitted to Memorial Medical Center of Long Beach as an
13 in-patient to the Spine Pain Management Program. The medical
14 records show diagnoses on discharge which include "drug
15 dependency" and "underlying depression and manipulatory
16 personality."

17 D. On or about November 21, 1987, in Orange County,
18 California respondent was arrested for illegal possession of
19 controlled substances for his personal use. At time of arrest,
20 respondent was assaultive toward his live-in-girlfriend and her
21 child and irrational. Among the drugs seized were the
22 following: 97 tablets of Anexia, 48 Darvon capsules and 39
23 Fiorinal capsules. None of the containers for these drugs bore
24 labels indicating a prescription for them to respondent.

25 E. On or about November 25, 1987, respondent was
26 admitted to UCI Medical Center pursuant to California Health &
27 Welfare Code section 5150 with diagnoses including major

1 depression; sedative, hypnotic and opioid (opiate) abuse;
2 narcissistic personality disorder. The records indicate a
3 history of sporadic psychiatric treatment and chronic
4 prescription drug abuse. The records also show that
5 respondent checked himself out of the hospital on November 30,
6 1987, although his mood was not improved.

7 F. Respondent has, in the past and over several years
8 taken approximately 40 to 50 mg. of Valium per day.

9 G. Respondent's history as set forth above in
10 subparagraphs 5 (A-F) show that respondent's ability to
11 practice his profession safely is impaired due to mental
12 and/or physical illness affecting competency, which is cause
13 for discipline of respondent's license under Code section 822.

14 H. Respondent's history as set forth above in
15 subparagraphs 5 (A-F) show that respondent has used,
16 prescribed for himself or self-administered controlled
17 substances or used dangerous drugs to such an extent that he
18 has become a danger to himself, other persons or the public,
19 or has impaired his ability to practice his profession safely,
20 which violates Code section 2239(a).

21 Intoxication While Attending Patient

22 9. On April 12, 1988, Jenny E. took her small
23 daughter to be examined by respondent for a suspected ear
24 infection. Jenny E. observed respondent to enter the office
25 looking as if he had just gotten out of bed and to be walking
26 "wobbly". She explained her daughter's complaints of crying,
27 fever and earache to respondent, to which he replied, "When is

1 her surgery?" Jenny E. observed that respondent's speech was
2 slurred, he could not stand straight, and that his eyes were
3 red and crossed. Respondent subsequently stated he would write
4 a prescription for penicillin but Jenny E. observed that when
5 he tried to write the prescription, he could not physically do
6 so. He then stated to her, "Oh, well, give her some Tylenol".
7 At that point Jenny E. took her children and fled respondent's
8 office.

9 A. Respondent's conduct on April 12, 1988, as set
10 forth above in subparagraph 6(A) shows that respondent was
11 intoxicated while attending a patient to such an extent that
12 it impaired his ability to safely treat that patient, which
13 violates Code section 2240.

14 B. Respondent's conduct on April 12, 1988, resulted
15 from and shows that respondent used or self administered
16 controlled substances and/or dangerous drugs to such an extent
17 that it impaired his ability to safely practice his profession
18 and endangered other persons (i.e., his patient), which
19 violates Code section 2239(a).

20 Failure to Supervise Physician's Assistants

21 10. During, but not necessarily limited to, the Fall
22 of 1987, respondent supervised at least one physician's
23 assistant. During that time, but not necessarily limited
24 thereto, respondent signed large numbers of blank
25 prescriptions for his physician's assistants' use when seeing
26 patients. There were neither patient-specific orders by
27

1 respondent for the prescriptions nor written protocols
2 regarding the drugs prescribed.

3 A. Respondent's conduct as set forth above in
4 subparagraph 7(A) shows that respondent failed to properly
5 supervise his physician's assistants, which constitutes a
6 violation of his responsibility for all medical services
7 provided by a physician assistant under respondent's
8 supervision pursuant to CCR section 1399.545(h) in conjunction
9 with section 1399.541(h).

10 11. Respondent's conduct as set forth above in
11 paragraph 5, 6, and 7 and their subparts, show repeated
12 instances of unprofessional conduct by respondent which
13 constitutes grounds to discipline respondent's license
14 under sections 822, 2239(a), and 2234 of the California
15 Business and Professions Code.

16 WHEREFORE, complainant prays the Division hold a
17 hearing on the above allegations and following said hearing:

18 1. Revoke respondent's certificate to practice
19 medicine;

20 2. Take such other and further action as the Division
21 deems appropriate to protect the public health, safety and
22 welfare.

23 DATED: May 3, 1988

24 Luan Fitzgerald for
25 KENNETH J. WAGSTAFF
26 Executive Director
27 Director of Medical Quality
Board of Medical Quality Assurance
State of California

KJW:gm:bl

1 JOHN K. VAN DE KAMP, Attorney General
of the State of California
2 SUSAN FITZGERALD,
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4 Telephone: (619) 237-7309

5 Attorneys for Complainant

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8 DIVISION OF MEDICAL QUALITY
9 BOARD OF MEDICAL QUALITY ASSURANCE
10 DEPARTMENT OF CONSUMER AFFAIRS
11 STATE OF CALIFORNIA

12 In the Matter of the Accusation)	No. D-3788
13 Against:)	
JERRY NEIL RAND, M.D.)	SUPPLEMENTAL
14 17672 Beach Boulevard)	ACCUSATION
Suites A and B)	
15 Huntington Beach, CA 92647)	
Physician's and Surgeon's)	
16 Certificate No. G 025749)	
17)	
Respondent.)	
18)	

19
20 Kenneth J. Wagstaff alleges:

21 12. He is the executive officer of the Board of Medical
22 Quality Assurance and makes this supplemental accusation in his
23 official capacity only.

24 13. Complainant incorporates and realleges each and
25 every allegation of paragraphs 1-11 of the original accusation
26 as though fully set forth herein.

27 /

1.

1 14. This supplemental accusation is brought with
2 reference to section 2234 of the California Business and
3 Professions Code ("Code") which provides for the Board to take
4 action against any licensee charged with unprofessional
5 conduct, which includes but is not limited to:

- 6 (b) gross negligence
- 7 (c) repeated negligent acts
- 8 (d) incompetence

9 15. Respondent has subjected his license to discipline
10 under Code section 2234 on account of the following:

11 Patient J.V.

12 A. On October 26, 1986, J.V. went to respondent's
13 office and was seen and treated by respondent for complaints of
14 chest pain. J.V. was referred to the emergency room at Humana
15 Hospital and admitted there in the afternoon of October 26,
16 1986 with a diagnosis of unstable angina.

17 B. Although respondent telephoned orders to the
18 hospital prior to J.V.'s admission, respondent did not see J.V.
19 until approximately 8:00 on October 27, 1986.

20 C. Between the time of admission and the time of
21 respondent first saw J.V. in the hospital, the patient's
22 electrocardiogram ("ECG") changed from "normal" to possible
23 subendocardial damage.

24 D. Respondent failed to write or dictate a final
25 discharge progress note and to keep full progress notes
26 regarding J.V.

1 E. Grounds exist for discipline of respondent's license
2 under Code section 2234 in that paragraphs 15(A-D) show that:

3 1. Respondent was grossly negligent in his failure to
4 personally attend J.V. on the date of admission.

5 2. Respondent acted incompetently and negligently by
6 failing to document complete assessment of J.V., including a
7 discharge summary.

8 Patient R.R.

9 F. On February 9, 1986, R.R. went to respondent's
10 office and was seen and treated by respondent for complaints of
11 shortness of breath and cough.

12 G. At respondent's office, R.R. was injected with
13 penicillin after which he had a seizure. Respondent attempted
14 to administer adrenalin but failed. Respondent administered
15 CPR and Valium, and R.R. was admitted to the emergency room at
16 Humana Hospital that same day.

17 H. Respondent did not tell any medical personnel at
18 Humana emergency room about the penicillin injection or the
19 attempted adrenalin treatment until emergency room personnel
20 called respondent to confirm respondent's actions after they
21 learned of them from R.R.'s wife.

22 I. On his admitting orders for R.R., respondent wrote
23 an order for ampicillin. Another physician cancelled that
24 order and substituted another antibiotic not of the penicillin
25 family of drugs.

26 J. Respondent failed to keep full progress notes on
27 R.R. and respondent's admission history and physical

1 examination failed to note his treatment of R.R. with adrenalin
2 and Valium.

3 K. Grounds exist for discipline of respondent's
4 license under Code section 2234 in that paragraphs 15(F-J) show
5 that:

6 1. Respondent was grossly negligent in his failure to
7 relay critical information regarding his office treatment of
8 R.R. to another physician about an unstable patient;

9 2. Respondent was grossly negligent in that he
10 intended to administer a drug (ampicillin) which previously had
11 been related to a significant adverse reaction (seizure);

12 3. Respondent acted incompetently and negligently by
13 failing to document complete assessment of R.R., including
14 progress notes and admission history.

15 Patient S.S.

16 L. On or about March 2, 1986, S.S. went to
17 respondent's office and was seen and treated by respondent for
18 complaints of a two-week history of cough, fever, chills,
19 vomiting and an 11 lb. weight loss.

20 M. On March 2, 1986, S.S. was admitted to Humana
21 Hospital by respondent with a diagnosis of bilateral pneumonia,
22 with a prior history of three pneumonia episodes in 1984 and
23 one in mid-January 1986.

24 N. Respondent placed S.S. on two different
25 antibiotics, concurrently, upon her admission to the hospital.

26 O. S.S.'s discharge diagnoses, of March 7, 1986, were
27 bilateral pneumonia and iron deficiency anemia.

1 P. S.S.'s hospital records show no significant
2 attempt by respondent to establish the causes of either the
3 pneumonia or the anemia.

4 Q. Respondent failed to write or otherwise record full
5 assessment, progress and discharge notes on S.S.

6 R. Grounds exist for discipline of respondent's
7 license under Code section 2234 in that paragraphs 15(L-Q) show
8 that:

9 1. Respondent incompetently and negligently treated
10 S.S. with two antibiotics concurrently without medical reason;

11 2. Respondent incompetently and negligently managed
12 and evaluated S.S.'s pneumonia;

13 3. Respondent acted incompetently and negligently by
14 failing to document complete assessment of S.S., including
15 progress and discharge notes.

16 Patient V.N.

17 S. On February 18, 1985, V.N. was admitted to Humana
18 Hospital by respondent with complaints of acute urinary
19 retention and overflow incontinence. No rectal examination was
20 done on V.N. either at time of admission or at any time during
21 this hospitalization. On or about February 18, 1985, thyroid
22 function tests were run on V.N. and were within normal limits.

23 T. On May 12, 1986, V.N. was again admitted to Humana
24 Hospital by respondent with a chief complaint of intractable
25 diarrhea.

26 U. During this May, 1986, hospitalization, an
27 elevated gastrin level in S.S. was detected. There is no

1 mention in respondent's discharge summary as to how the
2 elevated gastrin would be investigated.

3 V. During this May, 1986, hospitalization, repeated
4 thyroid studies of V.N. were performed, despite the previous
5 thyroid studies of February 18, 1985 being normal. Respondent
6 listed thyrotoxicosis as a discharge diagnosis with intent to
7 follow up with a thyroid scan.

8 W. No neurological examination is noted in
9 respondent's admission examination, although it is noted by the
10 urological consultant.

11 X. Grounds exist for discipline of respondent's
12 license under Code section 2234 in that paragraphs 15 (S-W)
13 show that:

14 1. Respondent incompetently diagnosed V.N. as
15 suffering from thyrotoxicosis upon her discharge from Humana
16 Hospital in May of 1986.

17 2. Respondent negligently failed to perform a rectal
18 examination of V.N. during V.N.'s hospitalization in February
19 of 1985.

20 3. Respondent negligently failed either to conduct a
21 neurological examination of V.N. upon her hospital admission in
22 May, 1986, or to record that respondent had, in fact,
23 conducted such an examination as part of the admission
24 examination.

25 /

26 /

27 /

6.

Patient J.K.

Y. On or about August 1, 1985, respondent admitted J.K. to Humana Hospital with right upper quadrant abdominal pain after a fall four days before, a fever and positive Murphy's signs. The admission diagnosis was acute cholecystitis.

Z. A rectal examination was not performed.

AA. Grounds exist for discipline of respondent's license under Code section 2234 in that paragraphs 15(Y & Z) show that respondent negligently failed to conduct and/or record rectal examination of patient J.K. upon his admission or during his hospitalization.

16. Further grounds exist for discipline of respondent's license in that paragraph nine of the original accusation show that respondent was intoxicated while attending a patient, which constitutes gross negligence under Code section 2234(b).

17. Further grounds exist for discipline of respondent's license in that paragraphs 15(D), (J), (N), (P), (Q), (S), (U), (W) and (Z) show respondent's repeated negligent acts, which violate section 2234(c).

WHEREFORE, complainant prays that the Division hold a hearing on the allegations of both the original and supplemental accusations and, following said hearing:

1. Revoke respondent's certificate to practice medicine;

2. Take such other and further action as it deems appropriate to protect the public health, safety and welfare.

DATED: June 2, 1968

KENNETH J. WAGSTAFF
Executive Director
Director of Medical Quality
Board of Medical Quality Assurance
State of California

KJW:bl

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of the State of California
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4 Telephone: (619) 237-7309

5 Attorneys for Complainant
6

7 BEFORE THE DIVISION OF MEDICAL QUALITY
8 BOARD OF MEDICAL QUALITY ASSURANCE
9 DEPARTMENT OF CONSUMER AFFAIRS
10 STATE OF CALIFORNIA
11

12 In the Matter of the Accusation)	NO.- D-3788
Against:)	
13)	
JERRY NEIL RAND, M.D.)	AMENDED
14 17672 Beach Boulevard)	
Suites A and B)	ACCUSATION
15 Huntington Beach, California 92647)	
16 Respondent.)	
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17
18 Kenneth J. Wagstaff alleges:

19 1. He is the Executive Officer of the Board of Medical
20 Quality Assurance ("Board") and makes this Amended Accusation
21 solely in his official capacity.

22 2. This Amended Accusation only corrects typographical
23 errors in paragraph 11 of Accusation D-3788, as follows:

24 Paragraph 11, p. 11, l. 11, is amended to read

25 //

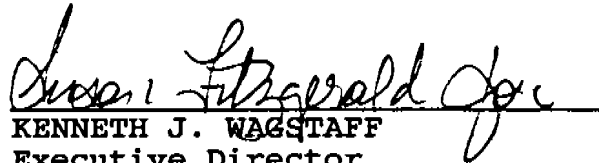
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as follows: "paragraph 8, 9 and 10 and their subparts,
show repeated"

DATED: 3/2/89



KENNETH J. WAGSTAFF
Executive Director
Board of Medical Quality Assurance
State of California

Complainant -----